

**COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION**

Policy Number 99-1

Effective Date: August 12, 1999

Revision #

Revision Date

Title: Designation of Local Workforce Investment Areas

PURPOSE

To describe the conditions under which the Governor will approve applications from local elected officials for designation of local workforce investment areas.

REFERENCES

Code of Virginia, Section 9-329.1(H)

P.L. 105-220, Workforce Investment Act (WIA), Section 116

20 CFR Parts 661.250, 661.260, 661.270 and 661.280

POLICY STATEMENT

The Commonwealth of Virginia will ensure that all citizens of the Commonwealth have access to program services provided under the Workforce Investment Act (WIA) through local workforce investment areas. The responsibility for designation of local workforce investment areas rests with the Governor, through consultation with the Virginia Workforce Council, chief local elected officials and through consideration of public comment.

The Workforce Investment Act (WIA) describes three different options for local area eligibility for designation as a local workforce investment area. Designation is open to any general unit of local government, including a combination of such units, which meet the criteria in the WIA. A current Job Training Partnership Act (JTPA) Service Delivery Area may be designated as a local workforce investment area, if the criteria in the WIA are met. A chief local elected official must agree to be the grant recipient for WIA funds and shall be liable for any misuse of funds. The chief local elected official may designate a local entity to serve as the local fiscal agent.

Although local elected officials may use several options in applying for local workforce investment area designation, the ultimate authority for final configuration rests with the Governor. General units of local government that apply for local workforce investment area designation should realize that final local workforce investment area configurations may differ from that proposed because of the Governor's assurance that all citizens be served.

Attachment A contains the procedures for chief local elected officials to apply for local workforce area designation and the procedures for appeal of the Governor's decision on local workforce area designation.

RECISIONS

APPROVED _____
Vice Chair, Virginia Workforce Council

Commissioner, Virginia Employment Commission

DATE: August 12, 1999

ATTACHMENTS

ATTACHMENT A

Procedures for chief local elected officials for submission of local area designation requests to the Virginia Workforce Council.

**COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION
POLICY NUMBER 99-1
ATTACHMENT A**

LOCAL WORKFORCE INVESTMENT AREA APPLICATION

The Workforce Investment Act of 1998 (Act) requires the Governor to designate local workforce investment areas within the State through consultation with the Virginia Workforce Council and after consultation with chief local elected officials and after consideration of comments from the general public. In making the designation of local areas, the Governor shall take into consideration the following:

- Geographic areas served by local educational agencies and intermediate educational agencies.
- Geographic areas served by post-secondary educational institutions and area vocational education schools.
- The extent to which such local areas are consistent with labor market areas.
- The distance that individuals will need to travel to receive services provided in such local areas.
- The resources of such local areas that are available to effectively administer the activities carried out under Title I of the Workforce Investment Act.

Section 116 of the Act describes three different options for local area eligibility. Designation is open to any general unit of local government, including a combination of such units, which meet the criteria. A current Job Training Partnership Act Service Delivery Area may be designated as local workforce investment area. The requirements for each local area designation category are as follows:

A. Option One

- **Automatic Designation Criteria**

Any unit of general local government with a population of 500,000 or more;

An area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area under JTPA; and

An area that served as a service delivery area under JTPA in a state that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.

Note: The second and third criteria listed above do not apply to the Commonwealth of Virginia.

B. Option Two

- **Temporary Designation Qualifications**

Any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of the Act if the Governor determines that the area has:

- i. Performed successfully, in each of the last two years prior to the request for which data are available (Program Year 1997 and 1998) in the delivery of services to participants under Part A of Title II **and** Title III of the Job Training Partnership Act; and
 - ii. Has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.
- Performed successfully means that the area involved met or exceeded the performance standards for activities administered in the area that are established by the Secretary of the U.S. Department of Labor for each year and modified by the adjustment methodology of the State that relate to:
 - i. Job retention and earnings, with respect to activities carried out under Part A of Title II under the Job Training Partnership Act; and
 - ii. Entry into employment, with respect to activities carried out under Title III of the Job Training Partnership Act.
- Sustained the fiscal integrity, used with respect to the funds used by a service delivery area or local area, means the Secretary of the U. S. Department of Labor has not made a final determination during any of the last three years for which data are available (Program Years 1996, 1997 and 1998) prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Job Training Partnership Act involved, gross negligence, or failure to observe accepted standards of administration.
- Duration and Subsequent Designation

A temporary designation shall be for a period of not more than two years, after which the designation may be extended, if requested until the end of the period covered by the State Plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the Virginia Workforce Council), the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities under Title I of the Workforce Investment Act.

C. Option Three

Any unit of general local government (including a combination of such units), not meeting Option A. or B., may be designated as a local area if the Virginia Workforce Council determines, taking into account the considerations at the beginning of this section, and recommends to the Governor that such area should be so designated.

- **Criteria for Option Three.**

A local area requesting designation under this category must address the following in its application:

- i. For existing JTPA service delivery areas, provide performance information based on Program Years 1997 and 1998.

If the service delivery area did not meet performance standards in both years, indicate the standards that were not achieved and what corrective action has/will be implemented to assure that performance levels will improve under the new Act.

- ii. For existing JTPA service delivery areas, provide information to substantiate that the service delivery area has maintained financial integrity for the last 3 years (Program Years 1996, 1997, 1998).
- iii. For a new area, identify the jurisdiction(s) to be included in the local workforce investment area and how the area meets the designation criteria at the beginning of this section. For example, the county or consortium of counties are in a rural area, are a regional economic development alliance, are involved in joint planning initiatives, etc.

D. Appeals:

1. Filing Appeals; Request for Expedited Process

- a. A unit of local government or combination of such units may appeal the denial of a request for automatic or temporary designation, or the denial of a recommendation from the Virginia Workforce Council for an area designation. All such appeals must be in writing and filed within thirty (30) calendar days of the date that the denial was mailed by the Council. The appeal must list the grounds upon which the appeal is sought and state whether the expedited process is being sought. The appeal shall be filed with the Commissioner, Virginia Employment Commission, P. O. Box 1358, Richmond, Virginia 23218-1358. The Commissioner, or his designee, shall promptly acknowledge receipt of the appeal.
- b. The appeal shall be deemed timely filed if it is received by the Commissioner within the 30-day period, unless the appeal is filed by mail, in which case the official postmark affixed by the U. S. Postal Service shall be deemed to be the date of filing. Any appeal that is filed late shall be summarily dismissed.

2. Hearing by Appeals Committee; Recommended Decision; Filing Exceptions

- a. Appeals shall be heard by the Appeals Committee of the Council not more than thirty (30) days after the appeal was filed. With the consent of the appealing party, the hearing may be held after the 30-day period specified, but in no case shall be hearing be conducted more than sixty (60) days after the appeal was filed.
 - b. The Appeals Committee shall inform the appellant and counsel of record of the date, time, and place of the hearing by written notice mailed at least ten (10) calendar days in advance. The appellant shall have the right to present testimony and documentary evidence, to offer evidence in rebuttal, to present oral argument and to be represented by counsel. All testimony received by the committee shall be under oath or affirmation.
 - c. Within fifteen (15) days of the hearing, the committee shall issue its recommended decision, which shall include its findings of fact, recommendations, and the basis therefore. That decision shall be mailed to the appealing party and that party's counsel of record.

Two copies of the decision shall be filed with the Commissioner of the Virginia Employment Commission, who shall promptly forward one copy to the chair of the Virginia Workforce Council.
 - d. The appealing party shall have the right to file exceptions to the committee's recommended decision. Those exceptions must be in writing and filed with the Commissioner of the Virginia Employment Commission within fifteen (15) days of the date the decision was mailed.
3. Council Review and Decision; Review by U. S. Secretary of Labor
- a. The recommended decision of the committee shall be placed on the agenda of the next council meeting for disposition; however, if no council meeting is scheduled within sixty (60) days of the date the decision was issued, a special meeting of the Council or a Committee designated by the Chair, shall be conducted within that 60-day period to accept, reject, or modify the committee's recommended decision.
 - b. In its deliberations, the council shall consider only the evidence presented to the Appeals Committee, the committee's recommended decision, and any written exceptions thereto. The Council shall not receive or consider any evidence not presented to the Appeals Committee.
 - c. The decision of the Council shall be reduced to writing and mailed

to the appealing party and their counsel of record. The decision must set out in summary fashion the Council's findings and conclusions. The Council may adopt, in whole or in part, the findings of fact, recommendations, and rationale of the Appeals Committee.

- d. The decision of the Council shall be final upon issuance. Thereafter, the aggrieved party shall have thirty (30) calendar days to seek further review from the Secretary of the U. S. Department of Labor as provided in the Workforce Investment Act.

4. Expedited Appeals Process

- a. Requests to use the expedited appeals process must be set out in the original appeal filed in accordance with subsection D1 of this Local Area Designation Policy. A request for use of the expedited process submitted after the appeal was filed shall be denied.
- b. At the election of the appealing party, the Appeals Committee shall hear the case as provided in subsection D2 of this Local Area Designation Policy and issue its decision which shall be the final decision of the Council, subject only to review on further appeal of the Secretary of the U. S. Department of Labor.

Form to Request Area Designation:

All requests for local area designation MUST be submitted on the attached form. If the blocks on the form do not provide adequate space for the local area to describe the local area, please attach additional pages as necessary. For local area consortia of 2 or more counties and/or cities, the chief local elected official for each county and city must sign the form. **The request for local area designation must be submitted by October 12, 1999.**

The completed form and required documentation must be mailed to the following address:

The Virginia Workforce Council
Attn: Mr. Willie Blanton, WIA Director
Virginia Employment Commission
P. O. Box 1358
Richmond, VA 23218-1358

Local Workforce Investment Area Designation Request
Program Year 2000
Commonwealth of Virginia
The Virginia Workforce Council

Identifying Information

1. Counties/Cities Included in the Proposed Local Area:

2. Category Under Which Designation Requested: Check the box that describes the designation category under which you are requesting Local Area Designation.

All requests for designation as a local workforce investment area under WIA must use the most current population data (July 1, 1997 - final) published by the Weldon Cooper Center for Public Service at the University of Virginia.

☐ A. Automatic designation for single units of local government with a population of 500,000 or more.

☐ B. Temporary designation as a local area from any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of the Workforce Investment Act.

- 1) If the proposed area is the same as the current Job Training Partnership Act service delivery area, provide below the current SDA name, contact person, e-mail and telephone number.

Name:

Contact person:

E-Mail and Phone Number:

- 2) Provide documentation that the Job Training Partnership Program performed successfully.

Performed successfully means that the area involved met or exceeded the performance standards for activities administered in the area requesting designation that are established by the Secretary of Labor for Program Years 1997 and 1998 and modified by the adjustment methodology of the Commonwealth of Virginia that relate to:

- Job retention and earnings, with respect to activities carried out under Part A, Title II, the Job Training Partnership Act; and
- Entry into employment, with respect to activities carried out under Title III, the Job Training Partnership Act.

The Executive Director of the Governor's Employment and Training Department must provide certification to the SDA which can be used as indication the SDA has performed successfully during Program Years 1997 and 1998. Evidence of successful performance must be submitted with the request for area designation.

- 3) Provide information to substantiate that the service delivery area has maintained financial integrity for the last 3 years (Program Years 1996, 1997, 1998).

Sustained the fiscal integrity, used with respect to the funds used by a service delivery area or local area, means the Secretary of the U. S. Department of Labor has not made a final determination during any of the last three years for which data are available (Program Years 1996, 1997 and 1998) prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Job Training Partnership Act involved, gross negligence, or failure to observe accepted standards of administration.

The Executive Director of the Governor's Employment and Training Department must provide certification to the SDA which can be used as indication the SDA has met this fiscal requirement.

☐ C. Option Three Designation (check one box below if this request for designation applies)

- ☐ 1) Existing Job Training Partnership Act service delivery area which did not meet population of 200,000, the performance standards or fiscal integrity or any other combination of these requirements.
- a) Provide performance information based on Program Years 1997 and 1998. If the service delivery area did not meet performance standards in both years, indicate the standards that were not achieved and what corrective action has/will be implemented to assure that performance levels will improve under the new act.
 - b) Provide fiscal integrity information for the last 3 years (Program Years 1996, 1997, 1998). If the service delivery area failed to sustain fiscal integrity during the period, indicate the audit exceptions and what corrective action has been taken/will be taken to assure fiscal integrity will be attained and sustained.
 - c) Provide any special and unique conditions that exist within the area that does not meet the 200,000 population.
- ☐ 2) A new local area which was **not** designated as a service delivery area under JTPA.

- a) If you have checked this box, please provide a description of any special and unique conditions within the proposed area.
- b) Please describe any conditions that exist within the proposed local area that should be considered in the designation of the local area. For example, changes in population, the county or consortium of counties are in a rural area, are a Local Economic Development District, are involved in joint planning initiatives, etc. Please attach documentation.

5. Name and address of the individual representing the requesting area who may be contacted for additional information:

Name:
Title:
Address:

E-Mail Address and Phone Number:

6. Name and address of designated local area grant subrecipient or local area fiscal agent: The chief local elected official(s) may designate a local entity to serve as the local fiscal agent.

Name:
Title:
Address:

E-Mail Address and Phone number:

REQUEST FOR LOCAL WORKFORCE INVESTMENT AREA DESIGNATION SIGNATURE PAGE

We, the undersigned, have been delegated authority by the Counties and Cities enumerated in Item 1 of this form to request designation for the area indicated above. The elected officials understand the chief local elected official(s) in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under the appropriate sections of the WIA. The chief local elected official(s) may designate a local entity to serve as the local fiscal agent. The elected officials understand the counties/cities shall be liable for any misuse of grant funds allocated to this area if approved. This liability will be stipulated in the agreement executed by the units of government requesting this designation.

Provide the Chief Local Elected Official's name, title, address and telephone number in the space indicated for the county/city represented.

Chief Local Elected Official

County/City

(Signature)

Name _____

Title _____

Address _____

Phone number _____

E-mail _____

(Signature)

Name _____

Title _____

Address _____

Phone number _____

E-mail _____

Provide the Chief Local Elected Official's name, title, address and telephone number in the space indicated for the county/city represented.

Chief Local Elected Official

County/City

(Signature)

Name _____

Title _____

Address _____

Phone number _____

E-mail _____

(Signature)

Name _____

Title _____

Address _____

Phone number _____

E-mail _____

Reproduce as necessary.

**RESPONSE TO REQUEST FOR LOCAL AREA DESIGNATION
TO BE COMPLETED BY THE GOVERNOR OR HIS DESIGNEE (S)**

7. Official Use Only: Governor's Approving Authority:

Approved:

Authority/Date:

Denied:

Reason: